

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION**

**LEWIS CONDIFF on Behalf of Himself
and on Behalf of All Others Similarly
Situated,**

Plaintiff,

V.

**GENESIS ENERGY, LLC AND
GENESIS MARINE, LLC,**

Defendants.

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**CIVIL ACTION NO. 3:13-CV-0211**  
**JURY TRIAL DEMANDED**

## SECOND STIPULATION REGARDING CONDITIONAL CERTIFICATION AND NOTICE TO PUTATIVE CLASS MEMBERS

Plaintiff Lewis Condiff, on behalf of himself and all other similarly situated, and Defendants Genesis Energy, LLC and Genesis Marine, LLC (collectively “Parties”) hereby file this Stipulation Regarding Conditional Certification and Notice to Class Members and request Court approval of such stipulation by signing below in the space provided.

1. Plaintiff brought this case against Defendants Genesis Energy, LLC and Genesis Marine, LLC, on behalf of himself and all similarly situated, current and former vessel and barge tankermen employed by Defendants in the past three years. Plaintiff contends that those vessel and barge tankermen qualified for overtime pay under the FLSA and that Defendants failed to pay overtime for all hours that they worked in excess of 40 hours per week. Plaintiff seeks overtime pay for all the time spent working over 40 hours in any work week and additional liquidated damages. Plaintiff is also seeking attorneys' fees and costs.

2. Defendants deny that they have violated the FLSA in any respect and vigorously contest liability. Defendants also deny that workers in the putative collection action described in Plaintiff's Complaint are "similarly situated" under 216(b) for any purpose, including for purposes of determining whether conditional certification of this matter. Defendants' consent to this stipulation regarding conditional certification and notice to putative class members is made without prejudice to their right later to argue that Plaintiffs and any opt-in Plaintiffs are not "similarly situated" under applicable law. Defendants further deny that this matter should be maintained as a collective action through trial and assert that, even if conditionally certified, it should be decertified.
3. Pursuant to a prior stipulation by the Parties in this case, which this Court granted on August 22, 2013 (Doc. No. 9), the Parties agreed to the entrance of an order conditionally certifying this case as a collective action. In accordance with that stipulation, Defendants produced a list of their tankermen and Plaintiffs' counsel oversaw the mailing of a Notice of Rights and Consent Form to those individuals. The period to opt in to this case under that stipulation expired November 13, 2013 and all consent forms received by Plaintiffs' counsel have been filed with the Court.
4. On November 22, 2013, Defendants produced a list of sixteen (16) individuals who worked for Defendants as tankermen within the last three years but were not so classified as of the date of production for the first list. As such, those individuals did not receive the Notice of Rights and Consent Form from the first mailing.
5. The parties stipulate that within **three (3) days** of the Court approving this stipulation by signing below, Plaintiffs' counsel shall mail a copy of the agreed Notice of Rights and agreed Consent Form (See Document 8, Exhibit 1) via first class mail to all persons on

the list produced on November 22, 2013 that have not already filed consent forms in this action. Plaintiffs' counsel shall also include a self-addressed, stamped envelope in the mailing. Plaintiffs' counsel may hire a class action administration company to oversee the mailing of the notice and forms, but Defendants' counsel may communicate with such class action administrative Company and shall be entitled to updates on the status of the notice and Consent Forms. All Consent Forms shall be returned to Plaintiffs' counsel who in turn will be responsible for filing them with the Court within fourteen (14) days of receipt.

6. The parties stipulate that Plaintiffs' counsel shall mail a second copy of the notice in the same manner prescribed above 30 days prior to the deadline to opt in to this lawsuit. Such second notice shall be sent only to those members on the list who have not already opted into this case.
7. It is further stipulated that Plaintiffs' Counsel will provide Defendants' Counsel with copies of the signed consent forms on a regular, rolling basis as they are received and Plaintiffs' Counsel shall file them with the Court within fourteen (14) days after receipt.
8. It is further stipulated that Plaintiffs' Counsel may provide copies of the notice and consent forms via electronic mail if requested to do so by a putative class member or if Plaintiffs' Counsel obtains the electronic mail address of a putative class member within the opt-in period.
9. It is further stipulated that Defendants will not communicate, directly or indirectly, with any current or former tankermen about any matters which touch or concern the settlement of any outstanding wage claims or other matters related to this suit during the opt-in

period. This shall not restrict Defendants from discussing with any current employees matters that arise in the normal course of business.

10. It is further stipulated that the Class Members shall have seventy-five (75) days from the date of the initial mailing of the Notice of Rights to file their Consent Form opting into this lawsuit as Plaintiffs. The Notice of Rights shall contain the appropriate deadline for joining this lawsuit. Plaintiffs who submit their consents after the deadline may join this lawsuit only by agreement of the parties or order of the court.

SIGNED on December 4, 2013.

  
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PRESIDING JUDGE

AGREED AS TO FORM AND SUBSTANCE:

By: /s/ Galvin B. Kennedy  
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ATTORNEYS FOR PLAINTIFF AND CLASS MEMBERS

AND

By: /s/ Jana H. Woelfel  
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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I certify that this document was served on all parties on November 22, 2013 via the Court's CM/ECF system.

/s/ Galvin B. Kennedy  
Galvin B. Kennedy